IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 20TH JUNE 2007 / 30TH JYAISHTA 1929

Bail Appl..No. 3713 of 2007()

CRMP.2023/2007 of DISTRICT COURT, PALAKKAD
CRIME NO.85/2007 OF KOTTAYI POLICE STATION, PALAKKAD DIST.

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PETITIONER/ACCUSED:

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1. YUSUF, S/O. MUHAMMED,
   KUNNINMEL, THEKKUMRI, THOLANUR,
   ALATHUR, PALAKKAD DIST.

2. SHAFI, S/O. SUBAIR,
   THEKKUMURI, THOLANUR, ALATHUR, PALAKKAD DIST.

3. VINU, S/O. MOHANDAS,
   VEETTIKKAL HOUSE, THEKKUMURI, THOLANUR,
   ALATHUR, PALAKKAD DIST.

BY ADV. SRI.SAJAN VARGHEESE K.

RESPONDENTS: COMPLAINANT:

STATE OF KERALA,
REP. BY THE SUB INSPECTOR OF POLICE,
KOTTAYI POLICE STATION, PALAKKAD DIST.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 20/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.3713 of 2007

Dated this the 20th day of June 2007

O R D E R

Application for anticipatory bail. Petitioners, three in number, faced allegations initially under Section 324 I.P.C. Subsequently considering the nature of the injuries suffered by the victim, the offence under Section 326 I.P.C has also been included. Investigation is in progress. The petitioners apprehend imminent arrest. The learned counsel for the petitioners submits that the allegations are inherently improbable and cannot be accepted. It is submitted in these circumstances that directions under Section 438 Cr.P.C may be issued in favour of the petitioners.

2. I have been taken through the averments in the F.I.R in detail. The learned counsel for the petitioners laboriously urges that the allegations are inherently improbable and not worthy of acceptance. Having considered the contentions in detail, I am not persuaded to agree that there is any inherent compelling reason to discard the allegations in the F.I.R and hold

that this is a fit case where extraordinary equitable discretion under Section 438 Cr.P.C can or ought to be invoked in favour of the petitioner. This is a fit case where the petitioners must follow the ordinary and normal procedure of appearing before the investigating officer or learned Magistrate. They must then apply for bail in the regular and ordinary course. I have no reason to assume that if the petitioners surrender before the learned Magistrate and apply for bail after giving sufficient prior notice to the prosecutor in charge, their application for bail will not be considered on merits, in accordance with law and expeditiously. Every court must do the same even without any specific directions from this court.

3. This petition is, in these circumstances, dismissed with the above observations.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007